

office located at 242 W. 36th Street, 14th Floor, New York, New York 10018.

7. Defendant Fora Financial Holdings, LLC is a New York limited liability company with its office located at 242 W. 36th Street, 14th Floor, New York, New York 10018.

8. Defendant Does 1-10 are other persons responsible for the calls detailed below.

FACTS

9. On September 13, 2016, at 12:01 p.m. plaintiff received a telephone call on his cell phone from 917-993-7550. (Exhibit A)

10. On September 13, 2016, at 12:18 p.m. plaintiff received a telephone call on his cell phone from 917-993-7421. (Exhibit B) Later the same day, plaintiff received another telephone call on his cell phone from 917-993-7421 at 2:17 p.m. (Exhibit D)

11. When dialed, the number 917-993-7550 is answered with a voicemail message, which begins, “Thank you for calling Fora Financial.”

12. Later on September 13, 2016, plaintiff received an email from “Fora Financial” offering its services. (Exhibit C)

13. On September 14, 2016, plaintiff received 3 telephone calls on his cell phone from 917-993-7421. (Exhibit D)

14. On September 14, 2016, plaintiff received an email from “Fora Financial” offering its services. (Exhibit E)

15. On September 19, 2016, at 9:25 a.m. plaintiff received another call on his cell phone. After answering, there was a brief pause, after which plaintiff was connected with a “Dan” of Fora Financial, who offered plaintiff a loan. (Exhibit F)

16. On October 28, 2016, plaintiff received 3 additional telephone calls on his cell phone from 917-993-7561. (Exhibit G) The call at 2:28 p.m. left a voicemail message. The voicemail message stated:

Hey Scott. Sorry about that my phone disconnected for some reason. If you want to give me a call back my direct line is 917-993-7561. That’s straight to my desk. Um, I’m with Fora Financial. I’ll shoot you over a little email as well. But I’ll try to follow up with you here in a little bit. Ok? I’ll talk to you soon. Bye.

17. The October 28, 2016 call at 4:08 p.m. was answered by a live caller who identified himself as calling from Fora Financial. (Exhibit G)

18. On October 28, 2016, plaintiff received an email from “Fora Financial” offering its services. (Exhibit H)

19. Defendants placed the phone calls to plaintiff’s cell phone.

20. Defendants, by using the single trade name “Fora Financial”, make it impossible to distinguish between them.

21. Plaintiff may have received other calls from Defendant as well.

22. On information and belief, the calls were placed using a predictive dialer. Predictive dialers place calls without human intervention until a connection is made. The machine “predicts” when a human is likely to be available to take the call if answered.

23. When plaintiff answered the calls, there was a pause. This is a common feature of a predictive dialer – sometimes a call is placed by the device when no one is available to take the call if it is answered.

24. Plaintiff did not authorize the automated placement of calls to his cell phone.

25. Plaintiff may have received other automated calls from the same source.

26. Plaintiff did not furnish his cell phone number to defendants.

27. Plaintiff and each class member is entitled to statutory damages.

28. Defendants violated the TCPA even if their actions were only negligent.

29. Defendants should be enjoined from committing similar violations in the future.

COUNT I – TCPA

30. Plaintiff incorporates paragraphs 1-29.

31. The TCPA, 47 U.S.C. §227, provides:

§ 227. Restrictions on use of telephone equipment

... (b) Restrictions on use of automated telephone equipment.

(1) Prohibitions. It shall be unlawful for any person within the United States, or any person outside the United States if the recipient is within the

United States–

(A) to make any call (other than a call made for emergency purposes or made with the prior express consent of the called party) using any automatic telephone dialing system or an artificial or prerecorded voice–

(iii) to any telephone number assigned to a paging service, cellular telephone service, specialized mobile radio service, or other radio common carrier service, or any service for which the called party is charged for the call; . . .

32. The TCPA, 47 U.S.C. §227(b)(3), further provides:

Private right of action.

A person or entity may, if otherwise permitted by the laws or rules of court of a State, bring in an appropriate court of that State–

(A) an action based on a violation of this subsection or the regulations prescribed under this subsection to enjoin such violation,

(B) an action to recover for actual monetary loss from such a violation, or to receive \$500 in damages for each such violation, whichever is greater, or

(C) both such actions.

If the Court finds that the defendant willfully or knowingly violated this subsection or the regulations prescribed under this subsection, the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under the subparagraph (B) of this paragraph.

33. Defendants violated the TCPA by placing automated calls to plaintiff's phone.

34. On information and belief, Defendants have willfully or knowingly violated the TCPA by continuing to make calls to cell phones using an automated dialer or a prerecorded voice after being served with a complaint alleging similar violations in *Schopp v. Fora Financial Holdings, LLC*, 4:16-cv-00128-ALM-KCJ (E.D. Tex.).

CLASS ALLEGATIONS

35. Plaintiff brings this claim on behalf of a class, consisting of (a) all persons (b) who, on or after February 6, 2016, (c) received calls from defendants on their cell phones, (d) placed using an automated dialer or a prerecorded or artificial voice.

36. The class is so numerous that joinder of all members is impractical. Plaintiff alleges on information and belief that there are more than 40 members of the class.

37. There are questions of law and fact common to the class that predominate over any questions affecting only individual class members. The predominant common questions include:

- a. Whether defendants engaged in a pattern of using automated equipment to place calls to cellular telephones;
- b. The manner in which defendants obtained the cell phone numbers; and
- c. Whether defendants thereby violated the TCPA.

38. Plaintiff will fairly and adequately protect the interests of the class. Plaintiff has retained counsel experienced in handling class actions and claims involving unlawful business practices. Neither plaintiff nor plaintiff's counsel has any interests which might cause them not to vigorously pursue this action.

39. A class action is an appropriate method for the fair and efficient adjudication of this controversy. The interest of class members in individually controlling the prosecution of separate claims against defendants is small because it is not economically feasible to bring individual actions.

40. Several courts have certified class actions under the TCPA: *Meyer v. Portfolio Recovery Associates, LLC*, 707 F.3d 1036 (9th Cir. 2012); *Manno v. Healthcare Revenue Recovery Group, LLC*, 289 F.R.D. 674 (S.D.Fla. 2013); *Mitchem v Illinois Collection Serv.*, 271 F.R.D. 617 (N.D.Ill. 2011); *Balbarin v. North Star Capital Acquisition, LLC*, 10 C 1846, 2011 U.S. Dist. LEXIS 686 (N.D. Ill., Jan. 5, 2011), later opinion, 2011 U.S. Dist. LEXIS 5763 (N.D.Ill., Jan. 21, 2011), later opinion, 2011 U.S. Dist. LEXIS 58761 (N.D. Ill., June 1, 2011); *Lo v. Oxnard European Motors, LLC*, 11CV1009 JLS (MDD), 2012 U.S. Dist. LEXIS 73983 (S.D.Cal., May 29, 2012); *Sadowski v. Med1 Online, LLC*, 07 C 2973, 2008 U.S. Dist. LEXIS 41766 (N.D.Ill., May 27, 2008); *CE Design Ltd. v Cy's Crabhouse North, Inc.*, 259 F.R.D. 135

(N.D.Ill. 2009); *Targin Sign Sys. v Preferred Chiropractic Ctr., Ltd.*, 679 F. Supp. 2d 894 (N.D.Ill. 2010); *Garrett v. Ragle Dental Lab, Inc.*, 10 C 1315, 2010 U.S. Dist. LEXIS 108339, 2010 WL 4074379 (N.D.Ill., Oct. 12, 2010); *Hinman v. M & M Rental Ctr.*, 545 F.Supp. 2d 802 (N.D.Ill. 2008); *Clearbrook v. Rooflifters, LLC*, 08 C 3276, 2010 U.S. Dist. LEXIS 72902 (N.D. Ill. July 20, 2010) (Cox, M.J.); *G.M. Sign, Inc. v. Group C Communs., Inc.*, 08 C 4521, 2010 U.S. Dist. LEXIS 17843 (N.D. Ill. Feb. 25, 2010); *Holtzman v. Turza*, 08 C 2014, 2009 U.S. Dist. LEXIS 95620 (N.D.Ill., Oct. 14, 2009); *Kavu, Inc. v. Omnipak Corp.*, 246 F.R.D. 642 (W.D.Wash. 2007); *Display South, Inc. v. Express Computer Supply, Inc.*, 961 So.2d 451, 455 (La. App. 1st Cir. 2007); *Display South, Inc. v. Graphics House Sports Promotions, Inc.*, 992 So. 2d 510 (La. App. 1st Cir. 2008); *Lampkin v. GGH, Inc.*, 146 P.3d 847 (Ok. App. 2006); *ESI Ergonomic Solutions, LLC v. United Artists Theatre Circuit, Inc.*, 203 Ariz. (App.) 94, 50 P.3d 844 (2002); *Core Funding Group, LLC v. Young*, 792 N.E.2d 547 (Ind.App. 2003); *Critchfield Physical Therapy v. Taranto Group, Inc.*, 293 Kan. 285; 263 P.3d 767 (2011); *Karen S. Little, L.L.C. v. Drury Inns, Inc.*, 306 S.W.3d 577 (Mo. App. 2010); *Travel 100 Group, Inc. v. Empire Cooler Service, Inc.*, 03 CH 14510 (Cook Co. Cir. Ct., Oct. 19, 2004); *Rawson v. C.P. Partners LLC*, 03 CH 14510 (Cook Co. Cir. Ct., Sept. 30, 2005); *Nicholson v. Hooters of Augusta, Inc.*, 245 Ga.App. 363, 537 S.E.2d 468 (2000).

41. Management of this class action is likely to present significantly fewer difficulties than those presented in many class actions, e.g. for securities fraud.

WHEREFORE, plaintiff requests that the Court enter judgment in favor of plaintiff and the class and against defendants for:

- (a) Statutory damages;
- (b) An injunction against the further violations;
- (c) Costs of suit; and
- (d) Such other or further relief as the Court deems just and proper.

COUNT II – ILLINOIS CONSUMER FRAUD ACT

42. Plaintiff incorporates paragraphs 1-29.

43. Defendants engaged in unfair acts and practices, in violation of ICFA § 2, 815 ILCS 505/2, by making an unauthorized robocall to plaintiff's cell phone.

44. Defendants' conduct is contrary to public policy, as set forth in the TCPA.

45. Plaintiff suffered damages as a result of receipt of the call.

46. Defendants engaged in such conduct in the course of trade and commerce.

47. Defendants should be enjoined from committing similar violations in the future.

CLASS ALLEGATIONS

48. Plaintiff brings this claim on behalf of a class, consisting of (a) all persons with phone numbers in the Illinois area codes (b) who, on or after February 6, 2016, (c) received calls from defendants on their cell phones, (d) placed using an automated dialer or a prerecorded or artificial voice.

49. The class is so numerous that joinder of all members is impractical. Plaintiff alleges on information and belief that there are more than 40 members of the class.

50. There are questions of law and fact common to the class that predominate over any questions affecting only individual class members. The predominant common questions include:

- a. Whether defendants engaged in a pattern of using automated equipment to place calls to cellular telephones;
- b. The manner in which defendants compiled or obtained their list of telephone numbers; and
- c. Whether defendants thereby violated the ICFA.

51. Plaintiff will fairly and adequately protect the interests of the class. Plaintiff has retained counsel experienced in handling class actions and claims involving unlawful business practices. Neither plaintiff nor plaintiff's counsel has any interests which might cause them not to vigorously pursue this action.

52. Plaintiff's claims are typical of the claims of the class members. All are based on the same factual and legal theories.

53. A class action is the superior method for the fair and efficient adjudication of this controversy. The interest of class members in individually controlling the prosecution of separate claims against defendant is small because it is not economically feasible to bring individual actions.

54. Management of this class action is likely to present significantly fewer difficulties than those presented in many class actions, e.g. for securities fraud.

WHEREFORE, plaintiff requests that the Court enter judgment in favor of plaintiff and the class and against defendants for:

- (a) Statutory damages;
- (b) An injunction against further violations;
- (c) Costs of suit;
- (d) Such other or further relief as the Court deems just and proper.

s/ Daniel A. Edelman
Daniel A. Edelman

Daniel A. Edelman
Cathleen M. Combs
James O. Lattuner
Dulijaza (Julie) Clark
Heather Kolbus
EDELMAN, COMBS, LATTURNER
& GOODWIN, L.L.C.
20 S. Clark Street, Suite 1500
Chicago, Illinois 60603
(312) 739-4200
(312) 419-0379 (FAX) (may use for service of pleadings)
Email address for service: courtecl@edcombs.com

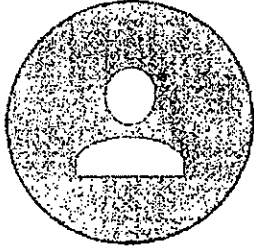
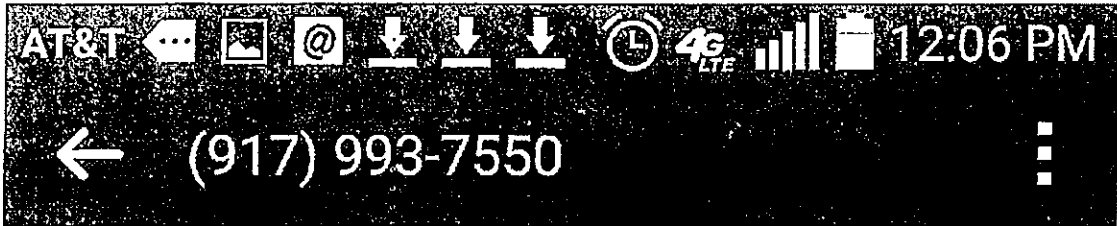
NOTICE OF LIEN AND ASSIGNMENT

Please be advised that we claim a lien upon any recovery herein for 1/3 or such amount as a court awards. All rights relating to attorney's fees have been assigned to counsel.

s/ Daniel A. Edelman
Daniel A. Edelman

Daniel A. Edelman
Cathleen M. Combs
James O. Lattuner
Julie Clark
Heather Kolbus
EDELMAN, COMBS, LATTURNER
& GOODWIN, L.L.C.
20 S. Clark Street, Suite 1500
Chicago, Illinois 60603
(312) 739-4200
(312) 419-0379 (FAX) (may use for service of pleadings)
Email address for service: courtecl@edcombs.com

EXHIBIT A



New contact

Update contact

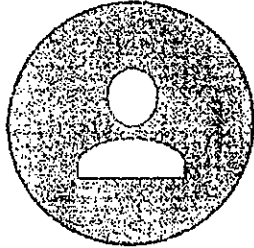
(917) 993-7550



← Sep 13 (Tue) 12:01 PM
00:00:52



EXHIBIT B



New contact

Update contact

(917) 993-7421



📞 Sep 13 (Tue) 12:18 PM



EXHIBIT C

----- Original message-----

From: Ian Samlin
Date: Tue, Sep 13, 2016 12:46 PM
To: dolembai@aol.com;
Subject: Business Funding Request: Next Step

Hi Scott,

I just tried calling - I received the inquiry you placed for business funding, and I'd like to provide an overview of how we could help get the capital you need to achieve your goals. Please give me a call at the number below or reply to this email with your number and a good time to call.

Fora Financial is a Direct Lender that specializes in providing quick and easy working capital loans, with some of the most competitive terms in the industry.

We are able to offer the following on many of our programs:

- Approval within 24 hours
- Business loans up to \$500,000
- Early payoff discounts as low as 10 cents on the dollar
- Terms up to 18 months

- Online account management to track payments and balance
- Easy renewal process

If you prefer to start the process immediately, please [click here](#) to download our application, and fax or email it (*preferred method*) back to me along with the 4 most recent and complete business bank statements. There is no cost or obligation to apply with us.

Thank you,

FORA
FINANCIAL*

Ian Samlin

Capital Specialist

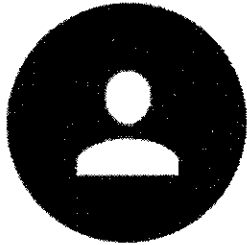
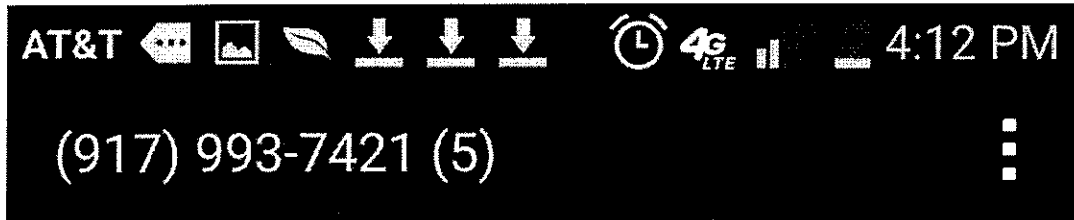
ian.samlin@forafinancial.com

Phone: (212) 947-0100 Ext. 436 | Fax: (888) 722 3313



This email was sent to dolembat@aol.com. If you no longer wish to receive these emails you may [unsubscribe](#) at any time.

EXHIBIT D



New contact

Update contact

📞 Sep 14 (Wed) 4:09 PM

📞 Sep 14 (Wed) 10:17 AM

📞 Sep 14 (Wed) 9:08 AM

📞 Sep 13 (Tue) 2:17 PM

📞 Sep 13 (Tue) 12:18 PM



EXHIBIT E

----- Original message-----

From: Ian Samlin

Date: Wed, Sep 14, 2016 12:47 PM

To: dolembai@aol.com;

Subject: Are you still interested in business funding?

Hi Scott,

We have many programs and I can customize a financing option that best fits your business model.

Download your application TODAY!

Think of all the opportunities there are to continue to grow and move your business towards an even more successful future. **Do you have an upcoming financing need for inventory, marketing, or just temporary cash flow? If so, respond to this email today or call (212) 947-0100.**

Please contact me **TODAY** so I can get started on creating a custom program for your business.

Best,

Ian Samlin

Capital Specialist

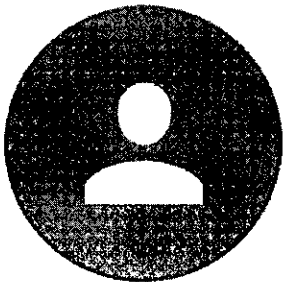
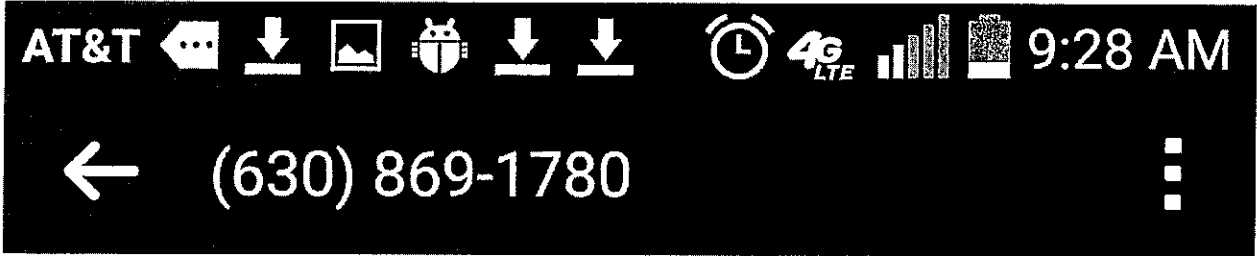
ian.samlin@forafinancial.com

Phone: (212) 947-0100 Ext. 436 | Fax: (888) 722 3313



This email was sent to dolembai@aol.com. If you no longer wish to receive these emails you may [unsubscribe](#) at any time.

EXHIBIT F



New contact

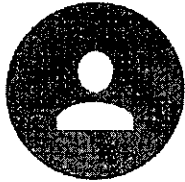
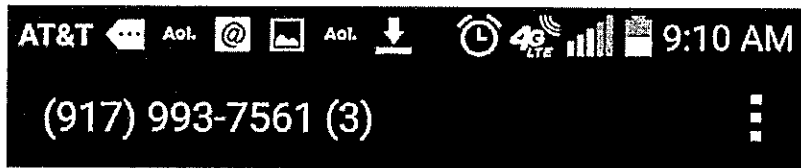
Update contact

(630) 869-1780



☎ ← Sep 19 (Mon) 9:25 AM
00:00:31

EXHIBIT G



New contact

Update contact

Oct 28 (Fri) 4:08 PM
00:00:18

Oct 28 (Fri) 2:31 PM

Oct 28 (Fri) 2:28 PM
00:01:46



EXHIBIT H

From: Jessica Foulk <jessica.foulk@forafinancial.com>
Date: Friday, October 28, 2016
Subject: Business Funding - Application Attached
To: dolembai <dolembai@aol.com>



212-947-0100
info@forafinancial.com

Hi Scott,

Thank you for taking the time to speak with me earlier today. I've attached our one page application for you to complete. Upon receipt of the paperwork requested below, I will forward everything over to my underwriting department for approval. You can expect a call back from me within 24-48 hours with the specific terms of your financing approval.

We require the following items to process the funding request:

- Completed and signed application (attached)
- Last **three** months of complete business bank statements (6 months if possible)

These items can be faxed to the number on the application, or emailed directly to me at this email address. If you download the monthly statements from your online banking portal and send them via email, it will expedite the approval process.

I look forward to receiving your paperwork and getting started on crafting a custom package tailored towards your business. Please don't hesitate to contact me if you have any questions or need any additional information.

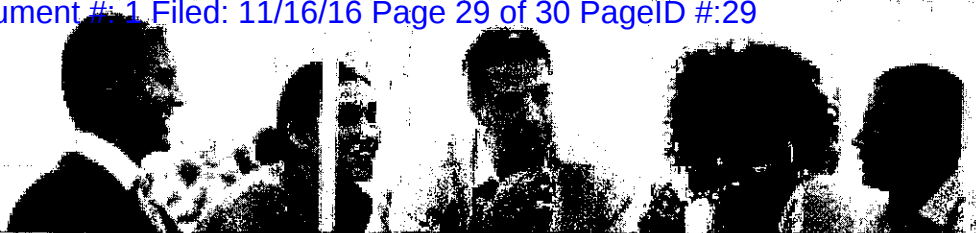
Regards,
Jessica Foulk
Capital Specialist
Phone: (212) 947-0100 x458
Fax: (888) 448-2967
www.Forafinancial.com

Have a friend that could use working capital? Ask me how you can earn \$250 per referral!

242 West 36TH Street, 14TH Floor
New York, NY 10018
FORAFINANCIAL.COM

WE KNOW SMALL BUSINESS

FORA
FINANCIAL®



Founded in June 2008, Fora Financial has provided more than \$300 Million to over 7,500 customers nationwide

With Fora Financial, clients don't need to jump through hoops trying to get a bank-issued small business loan. Instead, our simple application process requires only a few bank statements, rather than extensive paperwork and complex financial information. Even better, Fora Financial can approve loans up to \$1,000,000, in as little as 72 hours.

Who We Are

Fora Financial is a provider of innovative, flexible working capital solutions.

What We Do

Fora Financial helps small businesses in need and positions our customers for growth.

How We're Different

Our consultative approach yields the right solution

Rates from 10%

Terms as long as 24 months

Pre-Pay discounts as low as 5%

Online Account Access

Industries We Serve



MEDICAL



RESTAURANTS



CONSTRUCTION



TRUCKING



INTERNET BUSINESS



TRAVEL



TECHNOLOGY



RETAIL & WHOLESALE



STAFFING



OTHER

Your working capital can be used for any of your business needs, including:

Renovate Your Business to attract new customers

Market & Advertise to expand your customer base

Purchase Inventory

Hire More Staff to manage the increase in business

Cover Unexpected Expenses

Pay Your Taxes on time to avoid penalties

Upgrade New Technology to be cutting edge in your industry



See what our customers are saying about Fora Financial

"In just a few days and with minimal headache, we were approved for — and received — the funding we needed. Fora Financial's services are top notch. We look forward to an ongoing relationship as we continue to grow."

WILLIAM GILLIGAN
CHIEF TECHNOLOGY OFFICER
FOR GILLIGAN & FERNEMAN

The Boston Globe

THE WALL STREET JOURNAL

Daily Herald

The Miami Herald



Newsday





Working Capital Application

Jessica Foulk Tel: (212) 947-0100 ext 458 Fax: (888) 448-2967 Jessica.Foulk@forafinancial.com

Please fill in the form below and email or fax your completed application to the email address or fax number listed above. By signing below, you certify that all information and documents submitted in connection with this Application are true, correct, and accurate. Incomplete applications will not be processed.

BUSINESS INFORMATION

Business Legal Name:		Doing Business As (DBA):	
Address:		Suite/Floor:	
City:		State:	Zip:
Phone:	Mobile:	Fax:	Website:
Legal Entity: <input type="checkbox"/> Corp <input type="checkbox"/> Sole Prop <input type="checkbox"/> LLC <input type="checkbox"/> Partnership		Email:	
State of Organization:		Federal (Tax ID):	
Business Start Date (MM/YYYY):		Date Current Ownership Started:	

PROPERTY INFORMATION

Do you rent or own the business property? <input type="checkbox"/> Rent <input type="checkbox"/> Own-Mortgage <input type="checkbox"/> Own-Outright		
Monthly Rent/Mortgage Payment:	Are you current with rent/mortgage? <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A	
FOR RENTERS ONLY Landlord Name:	Landlord Phone:	Remaining length of lease:

OWNER / PRINCIPAL INFORMATION (Owner 1)

OWNER / PRINCIPAL INFORMATION (Owner 2)

Name:	Date of Birth:	Name:	Date of Birth:
Home Address:		Home Address:	
City:	State:	Zip:	City:
State:	Zip:	State:	Zip:
Email:	SSN:	Email:	SSN:
% of Ownership:	SSN:	% of Ownership:	SSN:

(If additional Owners/Principals, please attach that information to this application.)

FUNDING INFORMATION

Industry Description/SIC:	Type of Product/Service Sold:
Annual Business Revenue:	
Average Monthly Sales:	Average Monthly Credit Card Volume:
Number of Business Bank Accounts:	Average Daily Bank Balance:
Are you a party to any existing contractual agreements for which you have received working capital? <input type="checkbox"/> YES <input type="checkbox"/> NO	Current working capital balance:
Purpose of Funds Requested:	

Authorizations: By signing below, each of the above listed business and business owners (individually and collectively, "you") authorize FORA FINANCIAL, LLC ("FF") and its affiliates, successors, assigns and designees ("Recipients") to obtain consumer, personal and business reports and other information about you, including credit card processor statements and bank statements, from one or more consumer reporting agencies, such as TransUnion, Experian and Equifax, and from other credit bureaus, banks, creditors and other third parties. You also authorize FF to transmit this Application, along with any information obtained in connection with this Application, excluding consumer credit reports, to any or all of the Recipients. If your application for business credit is denied, you have the right to a written statement of the specific reasons for the denial within 30 days of FF receiving your request for the statement. To obtain the statement, please contact FF at the above address or phone number within 60 days from the date you are notified of the credit decision.

Payments to Independent Sales Organizations ("ISOs"): Some transactions funded by FF are originated by third-party ISOs who act as brokers. FF compensates ISOs based on the amount of the advance a referral merchant obtains from FF and, in some cases, the rate paid by the merchant.

Notice: The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The federal agency that administers compliance with this law concerning this creditor is the Federal Trade Commission, 600 Pennsylvania Ave. NW, Washington, DC 20580.

Owner 1 Signature: _____

Date: _____

Owner 2 Signature: _____

Date: _____

Please email to Jessica.Foulk@forafinancial.com or fax to (888) 448-2967
Questions? Call me at (212) 947-0100 ext 458